

## Department of Justice

## § 0.39a

### Subpart G-1—Executive Office for United States Trustees

#### § 0.37 Organization.

The Executive Office for United States Trustees shall be headed by a Director appointed by the Attorney General.

[Order No. 960-81, 46 FR 52344, Oct. 27, 1981]

#### § 0.38 Functions.

The Director shall have responsibility for assisting the Attorney General and the Deputy Attorney General in supervising and providing general coordination and assistance to United States Trustees. The Director shall perform such duties relating to such functions and others under the Bankruptcy Reform Act of 1978 as may be assigned by the Attorney General or the Deputy Attorney General.

[Order No. 960-81, 46 FR 52344, Oct. 27, 1981]

### Subpart G-2—Office of Professional Responsibility

SOURCE: Order No. 833-79, 45 FR 27754, Apr. 24, 1980, unless otherwise noted.

#### § 0.39 Organization.

The Office of Professional Responsibility shall be headed by a Counsel, appointed by the Attorney General. The Counsel shall be subject to the general supervision and direction of the Attorney General or, whenever appropriate, of the Deputy Attorney General or the Associate Attorney General or the Solicitor General.

#### § 0.39a Functions.

The Counsel on Professional Responsibility shall:

(a) Receive and review any information or allegation concerning conduct by a Department employee that may be in violation of law, regulations or orders, or of applicable standards of conduct or may constitute mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to public health or safety. However, this provision does not preempt the primary responsibility of internal inspection units of the Department to

receive such information or allegations and to conduct investigations.

(b) Receive and review any allegation of reprisal against an employee or applicant who discloses information pursuant to paragraph (a) of this section. Any disclosure by an employee or applicant to the appropriate internal inspection unit of the Department under this subsection shall constitute disclosure to the Attorney General or the Counsel.

(c) Make such preliminary inquiry as may be necessary to determine whether the matter should be referred to another official within the Department.

(d) Refer any matter that appears to warrant examination in the following manner:

(1) If the matter appears to involve a violation of law, to the head of the investigative agency having jurisdiction to investigate such violations;

(2) If the matter appears not to involve a violation of law, to the head of the office, division, bureau or board to which the employee is assigned, or to the head of its internal inspection unit;

(3) If referral to the official indicated in paragraph (d)(1) or (2) of this section would be inappropriate, to the Attorney General and the Deputy Attorney General or, if referral to both the Attorney General and the Deputy Attorney General would also be inappropriate, to whichever of them would be proper or to the Associate Attorney General or the Solicitor General.

(e) *Receive.* (1) Reports containing the findings of any investigation undertaken upon matters referred under paragraph (d)(2) of this section and the administrative sanction to be imposed, if any sanction is warranted; and

(2) Monthly reports from the internal inspection units setting forth any information or allegations received pursuant to paragraph (a) or (b) of this section and the status of any pending investigations.

(f) Notify within a reasonable period of time any person who has submitted information or made allegations pursuant to paragraph (a) or (b) of this section of the final result of any investigation undertaken: *Provided*, That such notification is permitted by and accords with applicable statutes and regulations.

## **§0.39b**

(g) Recommend to the Attorney General, the Deputy Attorney General, the Associate Attorney General, or the Solicitor General what further action should be undertaken with regard to any matter referred to such official under paragraph (d)(3) of this section, including the assignment of any task force or individual to undertake the action recommended and any special arrangements that appear warranted.

(h) Undertake any investigation of a matter referred under paragraph (d)(3) of this section that may be assigned by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or the Solicitor General, or cooperate with any other organization, task force, or individual that may be assigned by such official to undertake the investigation.

(i) Submit to the Attorney General and the Deputy Attorney General or, if submission to both would be inappropriate, to whichever of them would be proper or to the Associate Attorney General or the Solicitor General:

(1) An immediate report concerning any matter referred under paragraph (d)(1) or (d)(2) of this section that should be brought to the attention of a higher official;

(2) An immediate report concerning the adequacy of any investigation of a matter referred under paragraph (d) of this section, if the Counsel believes that a significant question exists as to the adequacy of such investigation; and

(3) An annual report, or a semi-annual report if the Counsel determines this to be necessary, reviewing and evaluating the activities of internal inspection units, or where there are no such units, the discharge of comparable duties within the Department.

(j) Submit recommendations to the Attorney General and the Deputy Attorney General on the need for changes in policies or procedures that become evident during the course of the Counsel's inquiries.

(k) Undertake any other responsibilities assigned by the Attorney General including duties relating to the improvement of the performance of the Department.

## **28 CFR Ch. I (7-1-05 Edition)**

### **§ 0.39b Confidentiality of information.**

Whenever any employee of or applicant to the Department provides information pursuant to §0.39a(a) or (b), the Counsel and the internal inspection unit shall maintain the confidentiality of the employee or applicant unless the employee or applicant consents to the release of his or her identity or the Counsel determines that the disclosure of the identity is necessary to resolve the allegation.

### **§ 0.39d Relationship to other departmental units.**

(a) Primary responsibility for assuring the maintenance of the highest standards of professional responsibility by Department employees shall continue to rest with the heads of the offices, divisions, bureaus and boards of the Department.

(b) Primary responsibility for investigating an allegation of unprofessional conduct that is lodged against an employee of the Department normally shall continue to rest with the head of the office, division, bureau, or board to which the employee is assigned, or with the head of its internal inspection unit, or, if the conduct appears to constitute a violation of law, with the head of the agency having jurisdiction over the subject matter involved.

(c) The heads of the offices, divisions, bureaus, and boards shall provide information and assistance requested by the Counsel in connection with reviews or investigations conducted by the Counsel or by any other person assigned to conduct reviews or investigations and shall keep the Counsel informed of major investigations that they are conducting.

(d) Employees of the Department may be assigned to the Office of Professional Responsibility on a case-by-case basis to conduct such inquiries as may be warranted. However, no investigative personnel shall be assigned except under the specific direction of the Attorney General or the Deputy Attorney General and, in normal course, with the agreement of the head of the unit to which the investigative personnel are regularly assigned. Personnel assigned to the Office shall work under the direction of the Counsel.